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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,116	02/20/2004	Phillip E. Schlangen	S324.12.5	1205

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EXAMINER

GREENHUT, CHARLES N

ART UNIT	PAPER NUMBER
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3652

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/783,116

Applicant(s)

SCHLANGEN, PHILLIP E.

Examiner

Charles N. Greenhut

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 2, 4 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

I. Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/06 has been entered.

II. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. With respect to claim(s) 7, the phrase, "said stop bolt" in line 3 lacks antecedent basis.

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claim(s) 1, 2, 4, 6 and 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS (US 6,726,435 B1) in view of WILLEY (US 6,478,529 B1), and MEYER (US 5,466,111 A).

1.1. With respect to claim 1, 2 and 9, WILLIAMS discloses a lift assembly (Fig. 2 providing movement C) upright first member (50), upright second member movably mounted on the first (54), linear actuator (Col. 3 Li. 61), platform (12), coupling member and first stop member (56), a transport assembly (Fig. 2 providing movement A), first beam (16), second beam movably mounted on the first (14), second linear actuator (48) tubular members and the first actuator therewithin (Col. 3 Li. 61), and box beams (16)/(14). WILLIAMS fails to teach a headrest. WILLEY teaches a headrest (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the headrest of WILLEY in order to promote the safety of the occupant. WILLIAMS additionally teaches a plurality of holes. WILLIAMS fails to teach the holes accommodating anchors. MEYER teaches holes (87) accommodating anchors (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the holes accommodating anchors of MEYER in order to register the platform. WILLIAMS fails to teach a second stop member. MEYER teaches a second stop member (84) for preventing movement of the wheelchair in the forth location. It would have been obvious to one having ordinary skill in the art to modify WILLIAMS with the second stop member of MEYER in order to restrain the wheelchair while the vehicle is in motion.

1.2. With respect to claim 4, WILLIMAS fails to teach a horizontal member, connecting means and an upright plate. WILLEY teaches a horizontal member (82), connecting means (80) and an upright plate (Fig. 3). It would have been obvious to one of ordinary skill in the art to modify WILLIMAS with the headrest support members of WILLEY in order to ensure stability of the headrest.

1.3. With respect to claim 6, WILLIAMS fails to teach upright pins having upper ends located in said holes and nuts threaded on the pins. MEYER teaches upright pins having ends located in the holes and nuts threaded thereon. It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the pins and nuts of MEYER in order to secure the platform to the support while the vehicle is in motion. While MEYER teaches the pins on a platform and holes on a support mounted to the vehicle, it would have been obvious to one of ordinary skill in the art to modify the arrangement to have the pins on the support and holes on the platform so as to minimize obstructions on the moving platform.

2. Claim(s) 7-8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS (US 6,726,435 B1) in view of WILLEY (US 6,478,529 B1), and MEYER (US 5,466,111 A), and VARRICHIO (US 5,421,692 A).

2.1. With respect to claim 7, WILLIAMS fails to teach a horizontal slot and stop member. VARRICHIO teaches a horizontal slot (12) with a stop member (38). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the horizontal slot and stop member of VARRICHIO in order to secure the wheelchair to the platform. It is unclear from the claim whether applicant is

attempting to recite the stop member as a bolt. Even assuming this additional limitation the claimed bolt would merely act as an abutment in the same manner and with the same results as the abutment member (38) of VARRICHIO.

2.2. With respect to claim 8, WILLIAMS fails to teach a generally horizontal top wall having inwardly converging inside edges providing a generally V-shaped mouth and a linear slot open to the mouth. VARRICHIO teaches a generally horizontal top wall having inwardly converging inside edges providing a generally V-shaped mouth and a linear slot open to the mouth (12).

IV. Response to Applicant's Arguments

Applicant's arguments entered 11/13/06 have been fully considered.

1. Applicant argues that WILLIAMS does not anticipate claims 1, as amended, because of the limitations added by the present amendment. This argument is persuasive and the rejection under 35 USC 102(b) over WILLIAMS is therefore withdrawn. Upon further consideration however, a new grounds of rejection under 35 USC 103(a) over WILLIAMS in view of WILEY and MEYER is presented above.
2. With respect to claim(s) 1, Applicant argues that WILEY does not render claim 1 obvious because "WILEY does not disclose a headrest mounted on a lift assembly of an apparatus for lifting a wheelchair and moving the wheelchair laterally and downwardly with the headrest behind the wheelchair." (Pg. 7 Li. 1-3). This argument is not persuasive. It is unclear from this statement how Applicant is distinguishing the claimed invention from the prior art since nowhere in the claims nor in the specification has applicant described moving the wheelchair downwardly with the headrest behind the wheelchair. There is only lateral movement with

the headrest behind the wheelchair. The headrest of WILEY when applied to the WILLIAMS apparatus would also move laterally along with stages 1 and 2.

3. With respect to claim(s) 1, Applicant further argues that the combination of WILLIAMS and WILEY is improper because modification of WILLIAMS with the headrest of WILEY would require destroying the ramps of WILLIAMS. This argument is not persuasive. No such destruction would be necessary. The apparatus could be constructed so that the wheelchair enters the platform in reverse and the headrest is located opposite the entrance ramp, exactly as shown in WILEY.
4. With respect to claim(s) 1, Applicant argues WILLIAMS fails to disclose the claimed stop members because the stop members (56) of WILLIAMS are not designed to prevent forward and rearward movement of the wheelchair. This argument is not persuasive. Firstly this is clearly the function of these members. Secondly additional limitations inserted by the present amendment requiring the second stop member to be at the forth location have mooted this issue with respect to the second stop member. A second stop member at the forth location is taught by MEYER as discussed above.
5. With respect to claim(s) 1, Applicant argues that VARRICHIO does not render claim 1 obvious because VARRICHIO fails to teach the claimed stop members. This argument is not persuasive. Firstly this issue is mooted with respect to the first stop member of claim 1 and with respect to the second stop member since these features are taught by WILLIAMS and MEYER respectively, as discussed above. The issue remains relevant with respect to the first stop member as described in the language of claim 7. With respect to claim(s) 7, member

(38) of VARRICHIO is a stop member within the broadest reasonable interpretation of that term.

6. With respect to claim(s) 1, Applicant argues that MEYER does not render claim 1 obvious because MEYER fails to teach the base having holes for the pins. This argument is not persuasive. There are no holes in the base because in MEYER, as noted in the previous office action, the pins and holes are reversed from applicant's chosen orientation. This reversal of parts performs the same function, registration of the chair, in the same manner with the same results and does not patentably distinguish applicant's invention from the prior art.

V. Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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